

Executive Summary – Enforcement Matter – Case No. 44036

City of Josephine

RN101916310

Docket No. 2012-0872-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Josephine WWTP, located approximately 0.2 mile north and 0.7 mile east of the intersection of Farm-to-Market Road 6 and Farm-to-Market Road 1777, Collin County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$48,770

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$19,995

Total Due to General Revenue: \$28,775

Payment Plan: one payment of \$810 and 35 payments of \$799 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44036

City of Josephine

RN101916310

Docket No. 2012-0872-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 21, 2012 and April 4, 2012

Date(s) of NOE(s): April 12, 2012 and May 11, 2012

Violation Information

1. Failed to comply with permitted effluent limitations for biochemical oxygen demand, dissolved oxygen, pH, flow, *Escherichia coli*, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010887001, Effluent Limitations and Monitoring Requirements Nos. 1, 3 and 6].
2. Failed to timely submit the annual sludge report by September 1, 2010, for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010887001, Sludge Provisions].
3. Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010887001, Monitoring and Reporting Requirements No. 7(c)].
4. Failed to analyze monthly samples at the minimum frequency specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(A), 319.4 and 319.5(b), and TPDES Permit No. WQ0010887001 Effluent Limitations and Monitoring Requirements No. 1 and Other Requirements No. 4].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that:

- a. By July 1, 2011, Respondent resumed sampling for all required parameters specified in the TPDES Permit No. WQ0010887001;
- b. By May 28, 2012, Respondent submitted the noncompliance notifications for effluent excursions greater than 40% over permitted limits for the months of August 2011, September 2011 and December 2011 to the Regional Office; and
- c. By May 28, 2012, Respondent submitted the annual sludge report to the Regional Office for the monitoring period ending July 31, 2010.

Executive Summary – Enforcement Matter – Case No. 44036
City of Josephine
RN101916310
Docket No. 2012-0872-MWD-E

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that all sampling and analytical procedures are properly accomplished, including procedures for the timely sampling and analysis of all TPDES permit required parameters and to ensure that written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to TCEQ;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010887001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Arron Gilbreath, Mayor Pro-Tem, P.O Box 99, Josephine, Texas 75164
The Honorable Mike Holmes, Mayor, City of Josephine, P.O. Box 99, Josephine, Texas 75164
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 16-Apr-2012 | Screening | 25-May-2012 | EPA Due | |
| | PCW | 30-Jul-2012 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|---------------------|---------------------------|-------|
| Respondent | City of Josephine | | |
| Reg. Ent. Ref. No. | RN101916310 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 44036 | No. of Violations | 3 |
| Docket No. | 2012-0872-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jill Russell |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$5,100 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | | |
|---------------------------|--------|-------------|--------------------------------|---------|
| Compliance History | 180.0% | Enhancement | Subtotals 2, 3, & 7 | \$9,180 |
|---------------------------|--------|-------------|--------------------------------|---------|

Notes Enhancement for 33 months of self-reported effluent violations and three NOV's with same/similar violations.

| | | | | | |
|--------------------|----|------|-------------|-------------------|-----|
| Culpability | No | 0.0% | Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------|-------------|-------------------|-----|

Notes The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | | |
|-------------------------|------|--------------|-------------------|-----|
| Economic Benefit | 0.0% | Enhancement* | Subtotal 6 | \$0 |
|-------------------------|------|--------------|-------------------|-----|

Total EB Amounts \$1,049
Approx. Cost of Compliance \$10,690
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$14,280 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|-------|-------------------|--------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -3.6% | Adjustment | -\$510 |
|---|-------|-------------------|--------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Reduction so that self-reported violations do not overly impact the penalty.

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$13,770 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$13,770 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$13,770 |
|------------------------|----------|

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 2 (September 2002)

Case ID No. 44036

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 36 | 180% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 180%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 33 months of self-reported effluent violations and three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 180%

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 2 (September 2002)

Case ID No. 44036

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010887001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on March 21, 2012, and a record review conducted on April 4, 2012, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-Day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, dissolved oxygen, and Escherichia coli ("E. coli") were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

92 Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | X |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended for the months of June, July and August 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| | | |
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$768

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

Economic Benefit Worksheet

Respondent City of Josephine

Case ID No. 44036

Reg. Ent. Reference No. RN101916310

Media Water Quality

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 30-Jun-2011 | 11-Jan-2013 | 1.54 | \$768 | n/a | \$768 |

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective actions to maintain compliance with permitted effluent limits. Date required is the first month of noncompliance. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$768

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 2 (September 2002)

Case ID No. 44036

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (11)(A), 319.4 and 319.5(b), and TPDES Permit No. WQ0010887001 Effluent Limitations and Monitoring Requirements No. 1 and Other Requirements No. 4

Violation Description

Failed to analyze monthly samples at the minimum frequency specified in the permit, as documented in a record review conducted on April 4, 2012. Specifically, the Respondent failed to analyze monthly samples for total ammonia nitrogen for the monitoring period ending February 28, 2011, and E. coli for the monitoring periods ending April 30, 2011, May 31, 2011, and June 30, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| | Major | Moderate | Minor |
|-----------|-------|----------|-------|
| Release | | | |
| Actual | | | |
| Potential | | X | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

119 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$4,000

Four single events are recommended for the the months of February, April, May and June 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$265

Violation Final Penalty Total \$10,800

This violation Final Assessed Penalty (adjusted for limits) \$10,800

Economic Benefit Worksheet

Respondent City of Josephine
Case ID No. 44036
Reg. Ent. Reference No. RN101916310
Media Water Quality
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | \$250 | 4-Apr-2012 | 11-Jan-2013 | 0.77 | \$10 | n/a | \$10 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The estimated cost for updating operational guidance and training of personnel so that sampling and analytical testing activities required by the permit are followed. Date Required is the date of the initial record review, and Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|-------|-------------|-------------|------|-----|-------|-------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$120 | 28-Feb-2011 | 30-Jun-2011 | 1.25 | \$8 | \$120 | \$128 |

Notes for AVOIDED costs

Estimated avoided cost to conduct ammonia nitrogen and E. coli sampling and analytical testing during monitoring periods ending February 28, 2011, April 30, 2011, May 31, 2011, and June 30, 2011. (\$30 per parameter per month) Date required is the beginning date of monthly sampling and analyses violations. Final date is the date after which the Respondent resumed sampling for all parameters.

Approx. Cost of Compliance \$370

TOTAL \$137

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 2 (September 2002)

Case ID No. 44036

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0010887001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report by September 1, 2010, for the monitoring period ending July 31, 2010, as documented in an investigation conducted on March 21, 2012.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Major | Harm Moderate | Minor |
|-----------|-------|------------------|-------|
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | X |

Percent 1%

Matrix Notes

70% or more of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

597 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$270

This violation Final Assessed Penalty (adjusted for limits) \$270

Economic Benefit Worksheet

Respondent City of Josephine
Case ID No. 44036
Reg. Ent. Reference No. RN101916310
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|------|------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$50 | 1-Sep-2010 | 28-May-2012 | 1.74 | \$4 | n/a | \$4 |

Notes for DELAYED costs

Estimated costs to prepare and submit the annual sludge report. Date required is the date that the annual report was due. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$4



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned PCW

16-Apr-2012
25-Jul-2012

Screening 25-May-2012

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent City of Josephine
Reg. Ent. Ref. No. RN101916310
Facility/Site Region 4-Dallas/Fort Worth **Major/Minor Source** Minor

CASE INFORMATION

Enf./Case ID No. 44036 **No. of Violations** 3
Docket No. 2012-0872-MWD-E **Order Type** Findings
Media Program(s) Water Quality **Government/Non-Profit** Yes
Multi-Media **Enf. Coordinator** Jill Russell
EC's Team Enforcement Team 3
Admin. Penalty \$ Limit Minimum \$0 **Maximum** \$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$20,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 100.0% Enhancement **Subtotals 2, 3, & 7** \$20,000

Notes Enhancement for 33 months of self-reported effluent violations and three NOVs with same/similar violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$5
Approx. Cost of Compliance \$150
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$40,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

-12.5%

Adjustment -\$5,000

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended reduction so that the reporting violations in violation no. 3 do not overly impact the penalty.

Final Penalty Amount \$35,000

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$35,000

DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$35,000

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 3 (September 2011)

Case ID No. 44036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 36 | 180% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 180%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 33 months of self-reported effluent violations and three NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 180%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 25-May-2012
Respondent City of Josephine
Case ID No. 44036

Docket No. 2012-0872-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010887001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during an investigation conducted on March 21, 2012, and a record review conducted on April 4, 2012, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | X | | | 30.0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Major | Moderate | Minor | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | | | | |
| | | | | | 0.0% |

A simplified model was used to evaluate biochemical oxygen demand (5-Day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, dissolved oxygen, flow, and Escherichia coli ("E. coli") were also evaluated. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 62 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | x |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of December 2011 and March 2012.

Good Faith Efforts to Comply

| | 0.0% Reduction | |
|---------------|----------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$26,250

This violation Final Assessed Penalty (adjusted for limits) \$26,250

Economic Benefit Worksheet

Respondent City of Josephine
Case ID No. 44036
Reg. Ent. Reference No. RN101916310
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See economic benefit for Violation No. 1 in PCW Revision 2.

| | | | | | | | |
|---|--|--|--|------|-----|-----|-----|
| Avoided Costs | | | | | | | |
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 3 (September 2011)

Case ID No. 44036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010887001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on April 4, 2012, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 5.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-Day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, dissolved oxygen, and pH were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

91 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | x |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter that contains the months of September, October, and November 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,188

This violation Final Assessed Penalty (adjusted for limits) \$2,188

Economic Benefit Worksheet

Respondent City of Josephine
Case ID No. 44036
Reg. Ent. Reference No. RN101916310
Media Water Quality
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See economic benefit for Violation No. 1 in PCW Revision 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 25-May-2012

Docket No. 2012-0872-MWD-E

PCW

Respondent City of Josephine

Policy Revision 3 (September 2011)

Case ID No. 44036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101916310

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010887001, Monitoring and Reporting Requirements No. 7(c)

Violation Description

Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance events for the months of August, September and December 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| | Harm | | |
|-----------|-------|----------|-------|
| Release | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| Falsification | | | |
| | X | | |

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

208 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$3,750

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

| | |
|---------------|-----------------|
| Extraordinary | |
| Ordinary | |
| N/A | X (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$6,563

This violation Final Assessed Penalty (adjusted for limits) \$6,563

Economic Benefit Worksheet

Respondent City of Josephine
Case ID No. 44036
Reg. Ent. Reference No. RN101916310
Media Water Quality
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$150 | 8-Sep-2011 | 28-May-2012 | 0.72 | \$5 | n/a | \$5 |

Notes for DELAYED costs

Estimated costs to prepare and submit the noncompliance notifications. See economic benefit for Violation No. 2 in PCW Revision 2 for updating operational guidance and training of personnel so that all reporting procedures are properly accomplished, including procedures to ensure that written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to TCEQ. Date required is the date that the first noncompliance notification was due. The final date is the date the noncompliance notifications were submitted to the Dallas/Fort Worth Regional Office.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$5

| Effluent Violations Table | | | | | | | | | |
|-------------------------------------|---------------------|--------------------|--------------------|-----------------|------------------------|------------------------------|------------------------------|--------------------|-----------------------|
| City of Josephine | | | | | | | | | |
| RN101916310; Docket 2012-0872-MWD-E | | | | | | | | | |
| TPDES Permit No. WQ0010887001 | | | | | | | | | |
| | BOD DAV Conc. | BOD DAV Loading | DO MIN Conc. | pH MAX | Flow MGD | <i>E. coli</i> DAV | <i>E. coli</i> SG | TSS DAV Conc. | TSS DAV Loading |
| Month/ Year | Limit = 30 mg/L | Limit = 18 lb/d | Limit = 4 mg/L | Limit = 9 SU | Limit = 0.07 MGD | Limit = 126 CFU or MPN | Limit = 394 CFU or MPN | Limit = 90 mg/L | Limit = 53 lb/d |
| June 2011 | 30.4 | c | c | c | c | N/T | N/T | 111.5 | c |
| July 2011 | 40.4 | c | c | c | c | c | c | 232.5 | c |
| August 2011 | 53.2 | c | 3.5 | c | c | 1,900 | 1,900 | 332.6 | c |
| September 2011 | 47.4 | c | c | 9.6 | c | c | c | 163.4 | c |
| October 2011 | 30.9 | c | 3 | 9.2 | c | c | c | c | c |
| November 2011 | 37.8 | c | c | c | c | c | c | 104.2 | c |
| December 2011 | 46.5 | 39.8 | c | c | 0.087 | 613 | 613 | 90.2 | 112 |
| March 21, 2012* | N/T | N/T | c | c | N/T | N/T | 3,973 | N/T | N/T |

DAV = Daily Average SG = Single Grab

BOD = Biochemical Oxygen Demand (5-Day)

DO = Dissolved oxygen

E. coli = *Escherichia coli*

CFU or MPN = colony forming units or most probable number per 100 milliliters

TSS = Total Suspended Solids

SU = Standard units

MIN = Minimum

MAX = Maximum

mg/L = milligrams per liter

lb/d = Pounds per day

MGD = Million gallons per day

Conc. = Concentration

c = compliant

N/T = Not tested

*Grab sample taken during the TCEQ investigation on March 21, 2012 by the Region 4 Investigator.

Compliance History Report

| | | | | |
|---|--|-------------------|----------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN600670178 | City of Josephine | Classification: AVERAGE | Rating: 2.53 |
| Regulated Entity: | RN101916310 | City of Josephine | Classification: AVERAGE | Site Rating: 1.59 |
| ID Number(s): | WASTEWATER | PERMIT | WQ0010887001 | |
| | WASTEWATER | EPA ID | TX0027502 | |
| | WASTEWATER LICENSING | LICENSE | WQ0010887001 | |
| | MUNICIPAL SOLID WASTE NON | ID NUMBER | 455040145 | |
| Location: | APPROXIMATELY 0.2 MILE NORTH AND 0.7 MILE EAST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 6 AND FARM-TO-MARKET ROAD 1777 IN COLLIN COUNTY, TEXAS | | | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | |
| Date Compliance History Prepared: | April 20, 2012 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | April 20, 2007 to April 20, 2012 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Jill Russell | Phone: | 512-239 - 4564 | |

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | |
|----|------------|----------|
| 1 | 06/18/2007 | 579170 |
| 2 | 07/19/2007 | (602722) |
| 3 | 08/17/2007 | (602723) |
| 4 | 09/18/2007 | (602724) |
| 5 | 02/29/2008 | (616644) |
| 6 | 10/17/2007 | (621016) |
| 7 | 11/19/2007 | (621017) |
| 8 | 12/12/2007 | (621018) |
| 9 | 02/19/2008 | (673149) |
| 10 | 02/04/2008 | (673150) |
| 11 | 05/21/2007 | (673151) |
| 12 | 02/04/2008 | (673152) |

| | | |
|----|------------|----------|
| 13 | 02/04/2008 | (673153) |
| 14 | 01/24/2008 | (673154) |
| 15 | 03/19/2008 | (691298) |
| 16 | 04/18/2008 | (691299) |
| 17 | 05/21/2008 | (691300) |
| 18 | 06/25/2008 | (712197) |
| 19 | 07/22/2008 | (712198) |
| 20 | 08/20/2008 | (712199) |
| 21 | 09/17/2008 | (712200) |
| 22 | 10/16/2008 | (712201) |
| 23 | 11/24/2008 | (728527) |
| 24 | 12/19/2008 | (728528) |
| 25 | 04/16/2009 | (742629) |
| 26 | 02/19/2009 | (751614) |
| 27 | 01/20/2009 | (751615) |
| 28 | 03/20/2009 | (769388) |
| 29 | 04/20/2009 | (769389) |
| 30 | 05/20/2009 | (769390) |
| 31 | 02/19/2010 | (807830) |
| 32 | 06/17/2009 | (807831) |
| 33 | 07/17/2009 | (807832) |
| 34 | 09/11/2009 | (807833) |
| 35 | 09/16/2009 | (807834) |
| 36 | 10/19/2009 | (807835) |
| 37 | 11/16/2009 | (807836) |
| 38 | 12/16/2009 | (807837) |
| 39 | 01/20/2010 | (807838) |
| 40 | 03/18/2010 | (832044) |
| 41 | 05/20/2010 | (832045) |
| 42 | 06/14/2010 | (846627) |
| 43 | 08/19/2010 | (867273) |
| 44 | 05/20/2010 | (874315) |
| 45 | 07/19/2010 | (874316) |
| 46 | 09/22/2010 | (874317) |
| 47 | 10/21/2010 | (881905) |
| 48 | 11/17/2010 | (888394) |
| 49 | 12/20/2010 | (896686) |
| 50 | 01/20/2011 | (902679) |
| 51 | 02/17/2011 | (926107) |
| 52 | 03/16/2011 | (926108) |
| 53 | 04/18/2011 | (938438) |
| 54 | 05/18/2011 | (938439) |
| 55 | 06/16/2011 | (945805) |
| 56 | 07/18/2011 | (959709) |
| 57 | 05/06/2011 | (959710) |
| 58 | 09/19/2011 | (965741) |
| 59 | 10/20/2011 | (971791) |

| | | |
|----|------------|----------|
| 60 | 11/14/2011 | (977954) |
| 61 | 12/19/2011 | (984720) |
| 62 | 01/18/2012 | (991012) |
| 63 | 04/12/2012 | (996490) |
| 64 | 03/24/2012 | (998380) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | | |
|------------------|---|-------------|--------------------------|
| Date: 4/30/2007 | (673151) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 5/31/2007 | (579170) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 6/30/2007 | (602722) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 7/31/2007 | (602723) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 9/30/2007 | (621016) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 12/31/2007 | (673154) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: 1/24/2008 | (616644) | CN600670178 | |
| Self Report? NO | | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to provide noncompliance notification as required by the permit. During the investigation it was noted that one flow excursion deviated from the permitted effluent limits by more than 40 percent. | | |
| Date: 1/31/2008 | (673149) | CN600670178 | |
| Self Report? YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|------------------|---|--------------------------|--|
| Date: 2/29/2008 | (616644) | CN600670178 | |
| Self Report? NO | | Classification: Moderate | |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) | | |
| Description: | Failure to submit the annual sludge reports, as required by the permit. | | |
| Self Report? NO | | Classification: Moderate | |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to comply with dissolved oxygen (DO), total suspended solids (TSS), biochemical oxygen demand (BOD), pH, and flow permit limitations. | | |
| Self Report? NO | | Classification: Minor | |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.7(c) | | |
| Description: | Failure to accurately complete the monthly discharge monitoring reports. | | |
| | | | |
| Date: 5/31/2008 | (712197) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date: 8/31/2008 | (712200) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 06/30/2009 | (807832) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 07/31/2009 | (807833) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 08/31/2009 | (807834) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 09/30/2009 | (807835) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 10/31/2009 | (807836) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | |
| Date 12/31/2009 | (807838) | CN600670178 | |
| Self Report? YES | | Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 01/31/2010 | (807830) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 02/28/2010 | (832044) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 05/31/2010 | (846627) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 06/30/2010 | (874316) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 07/31/2010 | (867273) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 08/31/2010 | (874317) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 09/30/2010 | (881905) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 10/31/2010 | (888394) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|--------------------------|
| Date | 11/30/2010 | (896686) | CN600670178 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

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|--------------|--|----------|-----------------|----------|
| Date | 03/31/2011 | (938438) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 06/30/2011 | (959709) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 07/31/2011 | (959710) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 08/31/2011 | (965741) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 09/30/2011 | (971791) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 10/31/2011 | (977954) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 11/30/2011 | (984720) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 12/31/2011 | (991012) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 01/31/2012 | (998380) | CN600670178 | |
| Self Report? | YES | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 03/21/2012 | -994340 | CN600670178 | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF JOSEPHINE
RN101916310**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0872-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Josephine ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant approximately 0.2 mile north and 0.7 mile east of the intersection of Farm-to-Market Road 6 and Farm-to-Market Road 1777 in Collin County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on March 21, 2012, and record review on April 4, 2012, TCEQ staff documented that the Facility had not been meeting the permitted effluent limitations as shown in the following table:

| Effluent Violations Table | | | | | | | | | |
|---------------------------|---------------------|--------------------|--------------------|-----------------|------------------------|------------------------------|------------------------------|--------------------|-----------------------|
| | BOD DAV Conc. | BOD DAV Loading | DO MIN Conc. | pH MAX | Flow MGD | <i>E. coli</i> DAV | <i>E. coli</i> SG | TSS DAV Conc. | TSS DAV Loading |
| Month/ Year | Limit = 30 mg/L | Limit = 18 lb/d | Limit = 4 mg/L | Limit = 9 SU | Limit = 0.07 MGD | Limit = 126 CFU or MPN | Limit = 394 CFU or MPN | Limit = 90 mg/L | Limit = 53 lb/d |
| June 2011 | 30.4 | c | c | c | c | N/T | N/T | 111.5 | c |
| July 2011 | 40.4 | c | c | c | c | c | c | 232.5 | c |
| August 2011 | 53.2 | c | 3.5 | c | c | 1,900 | 1,900 | 332.6 | c |
| September 2011 | 47.4 | c | c | 9.6 | c | c | c | 163.4 | c |
| October 2011 | 30.9 | c | 3 | 9.2 | c | c | c | c | c |
| November 2011 | 37.8 | c | c | c | c | c | c | 104.2 | c |
| December 2011 | 46.5 | 39.8 | c | c | 0.087 | 613 | 613 | 90.2 | 112 |
| March 21, 2012* | N/T | N/T | c | c | N/T | N/T | 3,973 | N/T | N/T |

DAV = Daily Average SG = Single Grab

BOD = Biochemical Oxygen Demand (5-Day)

DO = Dissolved oxygen

E. coli = *Escherichia coli*

CFU or MPN = colony forming units or most probable number per 100 milliliters

TSS = Total Suspended Solids

SU = Standard units

MIN = Minimum

MAX = Maximum

mg/L = milligrams per liter

lb/d = Pounds per day

MGD = Million gallons per day

Conc. = Concentration

c = compliant

N/T = Not tested

*Grab sample taken during the TCEQ investigation on March 21, 2012 by the Region 4 Investigator.

4. During an investigation on March 21, 2012, TCEQ staff documented that the Respondent did not submit the annual sludge report by September 1, 2010, for the monitoring period ending July 31, 2010.
5. During an investigation on March 21, 2012, TCEQ staff documented that the Respondent did not report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance events for the months of August, September and December 2011.
6. During a record review conducted on April 4, 2012, TCEQ staff documented that the Respondent did not analyze monthly samples at the minimum frequency specified in the permit. Specifically, the Respondent failed to analyze monthly samples for total ammonia nitrogen for the monitoring period ending February 28, 2011, and *E. coli* for the monitoring periods ending April 30, 2011, May 31, 2011, and June 30, 2011.
7. The Respondent received notices of the violations on April 16, 2012, and May 15, 2012.
8. The Executive Director recognizes that:
 - a. By July 1, 2011, the Respondent resumed sampling for all required parameters specified in the Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010887001;
 - b. By May 28, 2012, the Respondent submitted the noncompliance notifications for effluent excursions greater than 40% over permitted limits for the months of August 2011, September 2011 and December 2011 to the Regional Office; and
 - c. By May 28, 2012, the Respondent submitted the annual sludge report to the Regional Office for the monitoring period ending July 31, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010887001, Effluent Limitations and Monitoring Requirements Nos. 1, 3 and 6.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report by September 1, 2010, for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010887001, Sludge Provisions.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0010887001, Monitoring and Reporting Requirements No. 7(c).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to analyze monthly samples at the minimum frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (11)(A), 319.4 and 319.5(b), and TPDES Permit No. WQ0010887001 Effluent Limitations and Monitoring Requirements No. 1 and Other Requirements No. 4.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Forty-Eight Thousand Seven Hundred Seventy Dollars (\$48,770) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Nineteen Thousand Nine Hundred Ninety-Five Dollars (\$19,995) of the administrative penalty. The remaining amount of Twenty Eight Thousand Seven Hundred Seventy-Five Dollars (\$28,775) of the administrative penalty shall be payable with an initial payment of Eight Hundred Ten Dollars (\$810) and the remaining in 35 monthly payments of Seven Hundred Ninety-Nine Dollars (\$799) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Respondent to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Forty-Eight Thousand Seven Hundred Seventy Dollars (\$48,770) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Josephine, Docket No. 2012-0872-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all sampling and analytical procedures are properly accomplished, including procedures for the timely sampling and analysis of all TPDES permit required parameters and to ensure that written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to TCEQ, in accordance with TPDES Permit No. WQ0010887001, Monitoring and Reporting Requirements;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.d below;
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010887001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the

permitted effluent limitations, in accordance with Ordering Provision No. 2.d below; and

- d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a

written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Dawkins
For the Executive Director

3/29/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Josephine. I am authorized to agree to the attached Agreed Order on behalf of the City of Josephine, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Josephine waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Am. L. A.
Signature

October 5th 2012
Date

Arren Gilbreath
Name (Printed or typed)
Authorized Representative of
City of Josephine

Mayor pro-Tem
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.